

# The SEPA Process

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## A DDES Customer Information Bulletin



King County Department of Development and Environmental Services  
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<http://www.metrokc.gov/ddes/>

## Frequently Asked Questions

King County DDES has created customer information bulletins to inform the general public about the effect of codes and regulations on their projects. These bulletins are not intended to be complete statements of all laws and rules and should not be used as substitutes for them. If conflicts and questions arise, current codes and regulations are final authority. Because the codes and regulations may be revised or amended at any time, consult King County staff to be sure you understand all requirements before beginning work. It is the applicant's responsibility to ensure that the project meets all requirements of applicable codes and regulations.

### What is SEPA?

The term "SEPA" stands for the State Environmental Policy Act. The purpose of SEPA is to encourage harmony among humans and their environment, to promote efforts that will prevent or eliminate damage to the environment, to stimulate human health and welfare, and to enrich citizen understanding of the ecological systems and natural resources that are so important to Washington State.

SEPA is designed to ensure that the following occurs:

- ◆ Environmental values are considered during land use decisions.
- ◆ Adequate and timely environmental information is gathered and provided to decision-makers.
- ◆ Public involvement is included in the decision-making process.

### Who is responsible for SEPA in King County?

SEPA requires that all state and local governmental agencies determine the environmental impact of land use decisions. Government agencies are required to conduct an environmental review and determine if a proposal will cause a "probable significant adverse impact" to the environment. An environmental impact statement (EIS) is required if the agency determines that there probably will be significant adverse impacts.

The Department of Development and Environmental Services (DDES) is the King County agency responsible for SEPA compliance associated with the review of private development proposals that require building or land use permits in unincorporated King County. The "Responsible Official" who administers SEPA procedures is the Director of DDES, or the Director's designee. Planners in the Current Planning Section within the Land Use Services Division of DDES are specifically responsible for reviewing permit applications subject to SEPA

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review. One of the missions of the Current Planning Section is to implement the King County Code (KCC), Chapter 20.44, that adopts the SEPA administrative rules, Washington Administrative Code (WAC), Chapter 197-11.

### How is the Current Planning Section involved in the permit process?

Once a complete permit application subject to SEPA review is filed with DDES, a planner from the Current Planning Section is assigned to review the project. The DDES planner may assist in the following tasks:

- ◆ Conducts environmental reviews and determines whether proposed development plans will cause probable environmental impacts.
- ◆ Designs ways to reduce environmental impacts.
- ◆ Oversees the EIS process.
- ◆ Represents King County at SEPA appeal hearings and meetings.

The environmental review process in SEPA is designed to work with other regulations to provide a comprehensive review of a proposal. Most regulations focus on particular aspects of a proposal, while SEPA requires the identification and evaluation of probable impacts for all elements of the environment. The DDES planner will collaborate with other reviewers within DDES and other agencies as part of the SEPA review process. Combining the review processes of SEPA and other laws reduces duplication and delay by combining study needs, combining comment periods and public notices, allowing agencies, applicants, and the public to consider all aspects of a proposal at the same time.

The SEPA process provides information to the decision-maker on the environmental impacts of a development proposal for which a permit is required. Under SEPA, the permit decision-maker may condition or deny a proposal based on adopted King County SEPA policies and environmental impacts identified in the SEPA document (Reference WAC 197-11-660).

### What types of development proposals are exempt from SEPA?

All permit applications and other land use decisions are subject to SEPA review, unless specifically exempted. Some of the more common exemptions include the following:

- ◆ Construction of eight or fewer residential units (not a subdivision)
- ◆ Agricultural structures of 30,000 square feet or less (except feedlots) in an agricultural zone; 15,000 square feet or less in all other zones
- ◆ Commercial structures less than 12,000 square feet with 40 or fewer parking spaces
- ◆ Some short plats

For a complete list of activities exempt from SEPA, refer to WAC 197-11-800 and KCC 20.44.040. Some exemptions may not apply if sensitive areas are present on a site, if the project is located on lands covered by water, or if a series of actions is proposed that could have cumulative impacts. To determine if a proposal is exempt, review WAC 197-11-800 and 197-11-305, KCC 20.44.040, or contact a DDES planner at 206-296-6640 with questions.

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### How is an environmental checklist filled out?

When you apply for any permit requiring a SEPA review, you will need to complete an environmental checklist to initiate the SEPA process. The checklist contains questions about the natural environment (earth, air, water, etc.) and the built environment (traffic, schools, noise, etc.) of the site.

Answer each question on the environmental checklist accurately and to the best of your knowledge. In many cases, you should be able to answer the questions based on your own observations or project plans without hiring experts to assist you. If you have a large or complex project or your site contains sensitive areas, however, you may need the advice of expert consultants. You may also contact a DDES planner at 206-296-6640 if you need clarification on any questions or parts of the checklist.

If you do not know the answer to a question, or the question does not apply to your project, state this clearly on the checklist. A DDES planner will review the checklist for accuracy and will record any needed clarifications or changes. Your complete and accurate answers to the questions will help speed up the environmental review process.

The questions on the checklist apply to the entire project -- including future plans for development. The SEPA process requires an evaluation of cumulative impacts. For this reason, it is critical to state all current and future development intentions clearly on the checklist. For example, if you are planning a phased project, such as an apartment complex with 10 buildings involving construction over five years, disclose this information up front. The checklist should read, "I only want to apply for permits for five buildings at this time. I want to build five more buildings at a later date and will apply for those permits then."

### What happens during the environmental review process?

#### What is a threshold determination?

When SEPA review is required for a project, the responsible official must decide if the project is likely to have a "probable significant adverse impact" on the environment. This decision is called a "threshold determination."

If a project may have a probable significant adverse impact, a determination of significance (DS) is issued, and an environmental impact statement (EIS) is required.

If the project will not have a probable significant adverse impact, a determination of non-significance (DNS) is issued.

During the threshold determination process, DDES staff may identify measures that can be taken to reduce impacts to the environment. If the proposal is then clarified, changed, or conditioned to include these measures, the responsible official may issue a mitigated determination of non-significance (MDNS). Mitigation measures become conditions of the permit and are implemented during construction and/or before final approval.

#### How are threshold determinations made?

A threshold determination is based on the environmental checklist that has been completed for the project, together with other documents, reports, or maps submitted by the applicant. In addition, the DDES planner will review other information available through the County, such as the Sensitive Areas Map Folio and any EISs prepared for neighboring properties.

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Early in the review process, the DDES planner will decide which elements of the proposal pose potential significant adverse impacts and determine which agencies have the appropriate technical expertise to comment on these issues. King County agencies that are frequently contacted for comment include the Water and Land Resources Division (water quality, flooding, and drainage issues), the Health Department (public health and safety issues), and the Roads Division (traffic-level of service and traffic safety). If appropriate, other agencies will also be contacted. Such agencies commonly include the Puget Sound Air Pollution Control Agency (PSAPCA), the Washington State Departments of Fish and Wildlife, and Ecology, and any affected Indian tribes.

The DDES planner may request additional information and studies from the applicant. Commonly requested studies include wildlife use and habitat, stream characteristics, wetland delineation and mitigation, water quality, and noise. When there is enough information to warrant evaluating a proposal's environmental impacts, a threshold determination is made. In determining a project's potential impacts, the DDES planner must consider the following factors:

1. The planner must consider whether the same proposal may have a significant adverse impact in one location but not in another.
2. The planner must consider whether the proposal may result in a significant adverse impact regardless of where the project is located.
3. The planner must determine whether several small impacts, when considered together, may result in a significant adverse impact.
4. If there is incomplete or unknown information, the planner must decide whether it is possible to adequately determine environmental impacts.
5. As a final consideration, the DDES planner must try to determine whether a project will, to a significant degree, result in any of the following:
  - a. An adverse affect to environmentally sensitive or special areas, such as loss or destruction of historic, scientific, and cultural resources; parks; prime farmlands; wetlands; wild and scenic rivers; or wilderness;
  - b. An adverse affect to endangered or threatened species or their habitat;
  - c. A conflict with local, state, or federal laws or requirements for the protection of the environment; and
  - d. Establish a precedent for future actions with significant effects, involve unique and unknown risks to the environment, or affect public health or safety.

During the threshold determination process, the DDES planner will identify ways to reduce or eliminate impacts to the environment.

### How are mitigation measures developed?

A mitigation measure is a condition placed on a proposal to avoid, minimize, or reduce impacts. Mitigation measures must be reasonable, must be able to be accomplished, and must be based on existing County regulatory policies or plans, as specified in KCC 20.44.080.

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Applicants may ask the responsible official if a DS project is being considered. If the responsible official indicates that a DS is likely, the applicant may revise the project to eliminate the impact or to reduce it to an acceptable level. An MDNS is then issued that identifies the specific changes to the proposal, including the mitigation measures.

### What types of proposals receive a DS and why?

Because King County has many strong environmental regulations in place, few development applications receive a determination of significance (DS) requiring an environmental impact statement (EIS).

If a project receives a DS at the threshold stage, an EIS is required. Any project could potentially receive a DS, depending on the likelihood of significant or cumulative impacts. In recent history, some golf courses, subdivisions, and short plats with sensitive areas (such as floodplains or steep slopes), billboards, apartments, and churches have received a DS. A proposal may also receive a DS because of a single issue, such as traffic, school capacity, or water quality. The project may also have several marginal impacts that, together, could create a significant impact.

Each project is considered on its own merits, including the proposal itself, the site, and its surroundings. The same proposal may have a significant adverse impact in one location, but not in another location. The applicant is encouraged to consider alternative development scenarios that would achieve a lower degree of environmental degradation. A proposed development that is designed to avoid environmental impacts will be less likely to receive a DS.

### How is the public notified about land use proposals?

It is an important objective of King County to provide adequate opportunities for public input and comment on development proposals. The SEPA rules require a 14-day public comment and appeal period after a DNS threshold determination is issued and a 21-day comment period for a MDNS. The County publishes threshold determinations in the legal section of *The Seattle Times* newspaper every Wednesday.

On or before the date of publication in the newspaper, the applicant must also post the threshold determination on a 4-foot by 4-foot notice board that can be easily seen on or near the property for the required comment period. The applicant is responsible for sign installation, maintenance, and removal at the appropriate times. Property owners within a 500-foot radius of the proposal site are notified of the threshold determination by mail. DDES is responsible for mailing these notifications.

DDES also mails notices to individuals and groups who have specifically requested to be “parties of record.” A party of record will be notified of events throughout the permit process. To get on the mailing list for the SEPA process on a particular project, call the Current Planning Section at 206-296-6640 with the permit number (from the land use sign, newspaper, or mailed notice) and ask to become a party of record.

### How can a threshold determination be commented on or appealed?

Once the DNS or MDNS threshold determination is issued, there is 14- or 21-day comment period during which individuals who believe the determination was issued in error may appeal it or submit comments. All comments submitted to the Current Planning Section will be reviewed to determine if they present information previously unknown to the responsible official. If this is the case, and the comment leads to a determination that the proposal will have a probable significant adverse impact, the responsible official must withdraw the previous

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threshold determination and modify the decision to address significant impacts. Any determination may be appealed by asking the responsible official to consider additional information; to add, revise, or delete mitigation measures; or to request that the hearing examiner rule on the requirement for an EIS. A nonrefundable fee of \$125 is required to appeal a threshold determination.

During the time allowed for filing an appeal, you may contact a DDES planner at 206-296-6640 for information about the decision and/or to discuss your statement of appeal to ensure that it is as specific as possible.

When you appeal a proposal, please note that the purpose of the appeal is to help King County determine if there was an error with regard to the threshold determination. Your statement of appeal must clearly identify the decision being appealed, the specific reasons why the decision should be reversed or modified, any harm you have suffered or anticipate suffering as a result of the decision, and the relief you seek.

If the determination is appealed, an appeal hearing date is set, and a hearing is held. If a project involves other land use hearings, such as those for subdivisions, rezones, and conditional use permits, every attempt will be made to consolidate these hearings with the SEPA appeal into one proceeding. King County Code provides for consolidation of hearings and authorizes the Hearing Examiner to make final decisions on such consolidated hearings.

After hearing all testimony, a King County Hearing Examiner will decide whether the threshold determination is correct and will issue a decision on the appeal and a recommendation on the permit to the County Council, if applicable. A DDES planner will represent King County during the appeal hearing. If there are no appeals to the threshold determination, the project applicant must comply with any conditions specified in the threshold determination and the County must enforce those conditions.

The King County Code authorizes the Hearing Examiner, or any party, to call a pre-hearing conference to identify, to the extent possible, the facts in dispute, issues, laws, parties, and witnesses in the case, and to set a timeline for the presentation of the case. The pre-hearing conference will be scheduled so that at least 14 days notice is available to those who are “parties of record” to the hearing. Refer to the Hearing Examiner’s Rules of procedure for a complete definition of “party” for purposes of a SEPA appeal.

## What is an EIS?

An environmental impact statement (EIS) is a document designed to provide decision makers and the public with impartial information about a project and analyze alternatives to the proposal, including ways to avoid or minimize adverse impacts or to enhance environmental quality. The SEPA Rules stress that an EIS should be concise and focused on the significant issues. King County is responsible for producing the EIS and typically will hire appropriate experts to draft the document—this is done at the applicant’s expense.

## What is the EIS process?

After publication of a DS, there is a 21-day comment period, which is referred to as “Scoping.” Scoping is the first step in the EIS process. This time period provides an opportunity for the public and technical experts to give input to the agency about what they believe should be included in the EIS. Based on comments received, reasonable alternatives are identified by the SEPA Section and a plan is developed to investigate each significant impact.

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The EIS contains a description of the proposal and the alternatives, including a no-action alternative. For each element of the environment in the scope (air, water, earth, etc.) there is a description of existing conditions, significant adverse impacts, anticipated suggested mitigation measures, and unavoidable impacts. Technical studies may be included in an appendix to the EIS.

A draft EIS (DEIS) is published first, and citizens, agencies, and tribes are invited to comment on this document's adequacy during a 30-day comment period. Comment letters are incorporated into the final EIS (FEIS), along with a written response to each letter. Additional analysis may also be included in the FEIS, based on comments received. The FEIS is published, and the decision-maker uses both the DEIS and FEIS during the decision-making process.

### How much does it cost to go through the SEPA process?

Applicants are charged an hourly review fee, based on the current hourly rate specified in the DDES fee ordinance, for staff time spent reviewing and processing an environmental checklist, as well as for work on an EIS. To ask questions regarding current fees and estimated costs, please call a DDES planner at 206-296-6640.

### How long will the SEPA process take?

A threshold determination is generally made within 120 days after a complete permit application is filed, as specified in KCC Chapter 20.20. When reviewing the file, the DDES planner may request that the applicant provide supporting documentation. Depending on how long it takes for the applicant to provide supporting information, the 120-day period may need to be extended. After all requested information is received and reviewed for completeness, the threshold determination is completed.

### Other bulletins and telephone numbers that may be helpful

Bulletin 1	Building and Development Permit Telephone Numbers
Bulletin 8	Commercial and Multi-family Building Permits
Bulletin 21	Sensitive Areas Review
Bulletin 25	Short Subdivisions
Bulletin 28	Clearing and Grading Permits
206-296-6640	DDES Land Use Services Division, Current Planning Section
206-296-6600	DDES Permit Center
206-296-6655	DDES Zoning Information



King County complies with the Americans with Disabilities Act (ADA). If you require an accommodation to attend a meeting (two weeks notice) or require this information in Braille, audiocassette, or large print, please call 206-296-6693 or TDD 206-296-7217.